

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

348I0463

SENATE BILL NO. 140

Introduced by: Senator Knudson and Representatives Williamson and Michels

1 FOR AN ACT ENTITLED, An Act to revise certain terms used in the levy of taxes on banks
2 and financial corporations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-43-1 be amended to read as follows:

5 10-43-1. Terms used in this chapter mean:

6 (1) "Corporation," joint stock companies, limited partnerships, limited liability companies,
7 and associations organized for pecuniary profit;

8 (a) "Domestic corporation," any corporation organized under the laws of this
9 state;

10 (b) "Foreign corporation," any corporation other than a domestic corporation;

11 (2) "Depository," any bank with deposits insured under the Federal Deposit Insurance
12 Act, any institution with accounts insured by the federal savings and loan insurance
13 corporation, or any thrift or home financing institution which is a member of a federal
14 home loan bank; any other bank or thrift institution, incorporated or organized under
15 the laws of any state, which is engaged in the business of receiving deposits; or any
16 company, organized or created under the laws of a foreign country, which maintains



1 or owns a branch or subsidiary in the United States receiving deposits;

2 (3) "Dividend," any distribution made by a corporation out of its earnings or profits to its
3 shareholders or members, whether in cash or in other property of the corporation;

4 (4) "Financial institution," any banking institution or savings and loan association
5 organized under the laws of the United States and located or doing business in this
6 state; any bank, savings and loan association, mutual saving bank, or trust company,
7 organized under the laws of this state or of any other state, district, territory, or
8 country, doing business within this state; any person licensed in this state pursuant to
9 chapter 54-4, the installment repayment small loan and consumer finance law; and any
10 person in the business of buying loans, notes, or other evidences of debt except those
11 persons registered as broker-dealers pursuant to chapter 47-31A; and persons in the
12 business of making installment repayment and open-end loans which may be
13 unsecured or secured by real or personal property, which loans are in an aggregate
14 amount exceeding five hundred dollars, which are repaid in two or more installment
15 payments or one lump sum payment extending over a time exceeding thirty days from
16 the day the loan was made except where the loan is made by the person selling the
17 property, incidental to the sale of the property and where the seller is primarily in the
18 business of selling such real or personal property or except where the loan is made to
19 a related corporation and the primary business of these related corporations is the
20 production and sale of tangible personal property or where the loan is made in the
21 form of an advance to secure the production of equipment to be obtained by the
22 lender or to finance a joint venture between the lender and others which has been
23 formed to produce and sell tangible personal property;

24 (5) "Fiscal year," an accounting period of twelve months, ending on the last day of any

1 month other than December;

2 (6) "Foreign country," any jurisdiction other than one embraced within the United States.

3 "United States," when used in a geographical sense, includes the states, the District
4 of Columbia, and the possessions of the United States;

5 (7) "Income year," the calendar year or the fiscal year upon which the net income is
6 computed;

7 (8) "Individual," a natural person;

8 (9) "Paid," for the purposes of the deductions means paid or accrued or paid or incurred,
9 and the terms paid or incurred and paid or accrued are construed according to the
10 accounting method used for computing net income; received, for the purpose of the
11 computation of net income means received or accrued, and the term received or
12 accrued is construed according to the accounting method used for computing net
13 income;

14 (10) "Person," includes individuals, firms, associations, limited liability companies,
15 corporations, estates, fiduciaries, and all entities from which income tax may be due.
16 In no event shall a pass-through entity owned in whole or in part, directly or
17 indirectly, by a financial institution subject to tax under this chapter, and formed
18 primarily to facilitate the securitization of assets, be treated as a person for the
19 purpose of subdivision 10-43-1(4);

20 (11) "Related corporation," a corporation associated with another as its parent or
21 subsidiary, or in a brother-sister relation;

22 (12) "Taxable income," all net income;

23 (13) "Taxpayer," includes any person, corporation, or fiduciary who is subject to a tax
24 imposed by this chapter;

- 1 (14) "Tax year," the calendar year, or the fiscal year ending during a calendar year, used
- 2 for computing net income.